

Remarks

Claims 13 – 14 are amended; claim 15 is canceled and claims 16 – 17 are added. Claims 1 – 14 and 16 – 17 are the pending herein upon entry of this amendment.

Claims 13 – 15 were rejected under § 112, second paragraph, for the reasons given on page 2 of the official action. The bases for the rejection are addressed by the amendments to claims 13 and 14, cancellation of claim 15 and addition of claim 16. Reconsideration and withdrawal of the § 112 rejection are respectfully requested.

Applicants respectfully traverse the § 102(b) rejection of claims 1 – 5, 9, 10 and 12 as being anticipated by Aven (EP1023832).

More specifically, as the Examiner correctly points out, Aven discloses certain alkylpolyglycosides [APGs] in conjunction with hydrotropes. However, as a class, APGs generally are water-soluble agents; they are not clearly and unequivocally oil-based adjuvants as required by the present claims (please see the definition of oil-based adjuvants provided in the present application on page 3, lines 24-28). Therefore, since Aven does not clearly disclose oil-based adjuvants, claim 1 and all claims dependent upon claim 1 are not anticipated by Aven. Reconsideration and withdrawal of the § 102(b) rejection are respectfully requested.

Applicants respectfully traverse the § 103 rejection of claims 6 and 13 - 15 (now 6, 13 – 14 and 16 – 17) as being unpatentable over Aven (EP1023832).

As explained above, the present claims are novel over Aven. There is nothing in Aven to motivate the skilled person (i) to take the water soluble APGs of Aven and to replace them with an oil-based adjuvant; (the physical properties and behaviors of APGs and oil-based adjuvants are very different) and (ii) attempt to use hydrotropes in order to dissolve the oil-based adjuvant in to an aqueous continuous phase. The disclosure of Aven does not provide one of ordinary skill with any reasonable expectation of success. Accordingly, claim 1 and all claims dependent upon claim 1 are patentable over Aven. Reconsideration and withdrawal of the § 103 rejection over Aven are respectfully requested.

Applicants note with appreciation the Examiner's indication that claims 7, 8, and 11 contain allowable subject matter.

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In view of the foregoing amendments and remarks, Applicants submit that the claims are in condition for allowance. Reconsideration and withdrawal of all rejections are respectfully requested, along with the issuance of a Notice of Allowance.

Respectfully submitted,

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